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August 7, 2007

The Honorable Greg Stumbo  
Office of the Attorney General  
The Capitol, Suite 118  
700 Capitol Avenue  
Frankfort, Kentucky 40601-3449

Dear General Stumbo:

Thank you for your letter of August 7, 2007 concerning California Secretary of State Debra Bowen's recent actions regarding voting systems. I appreciate your interest in our elections and have enjoyed a good working relationship with your office on enforcement of our state's election laws.

As you know, electronic voting systems have been used in most Kentucky counties starting in the mid-1980's without any known security breaches. All systems in use in Kentucky today were unanimously certified by the State Board of Elections pursuant to KRS 117.379 and comply with the federal voting system guidelines in place at the time of certification. Counties make their own decisions about which certified voting systems to purchase.

The State Board is constantly certifying new versions of these voting systems as upgrades are made to the systems as well as new voting system guidelines are adopted. Currently, all voting systems used in Kentucky meet the 2002 federal voting system guidelines, the most recent set of guidelines to which any machines are certified in this country.

The State Board of Elections and I have been monitoring news reports for the past couple of years of potential security flaws with electronic voting systems, especially the newer electronic voting systems mandated by the 2002 Help America Vote Act (HAVA). These systems were designed so that disabled voters, such as those with visual or motor skill disabilities, could vote without assistance. In addition, the systems were purchased by counties mandated by HAVA to replace old lever machines, which were vulnerable to tampering and failure. The vast majority of votes in Kentucky, however, are cast on the older, electronic voting systems.



AN EQUAL OPPORTUNITY EMPLOYER M/F/D

In particular, I have been closely following Secretary Bowen's review from its inception and read the review in its entirety when it was released a few weeks ago, as well as much of the commentary – positive and negative – concerning the review as well as Secretary Bowen's actions taken last Friday.

Obviously, I am concerned about the system vulnerabilities found in Secretary Bowen's review, as well as those found in prior studies over the past couple of years. I am glad that you now share these concerns.

However, I find it misleading and irresponsible your letter states that Secretary Bowen decertified voting systems without stating that Secretary Bowen actually recertified all the voting systems that are used in Kentucky for use in California elections.

In her recertification, she asked for additional safeguards to be taken to insure that machines are not vulnerable. In Kentucky, we already have developed and implemented many safeguards to minimize or eliminate any potential vulnerabilities. Prior to every election, the State Board of Elections works with County Clerks to develop and share best practices to insure that our voting systems are secure and accurate. The State Board of Elections staff then trains county clerks, who in turn train precinct election officers, on these procedures.

For these reasons I feel compelled to note the observation made in the *Los Angeles Times* by Los Angeles County Registrar-Recorder Conny McCormack that the study "was akin to testing the security of your money in a bank with unlocked doors, with no security guards or even bank tellers in sight and the bank's vault wide open." Our poll workers are the bank tellers and security guards on Election Day. We will continue to train them well.

As you may know, I have been leading the effort in Kentucky to require voter verified paper records (VVPR), not just paper receipts, to be used in Kentucky. Currently, Jefferson County voting systems produce a VVPR, while Warren, Graves and Boyle Counties tested VVPR during the May primary. In fact, I was the first elected official in Kentucky to call for VVPR across the Commonwealth.

Our office encouraged State Representative Larry Clark to introduce a bill making VVPR mandatory in the last General Assembly session and have worked to free up approximately \$15 million of our remaining HAVA funds to help the counties purchase such systems. I discussed the broad outlines of this plan this summer at the Judge-Executives and Magistrates/Commissioners Conference as well as during over a dozen visits to County Clerk offices over the past couple of weeks.

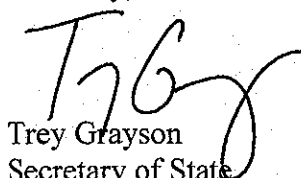
In fact, last week, I shared details of this plan with an office visit with Chris Waugh, County Clerk in your own Floyd County. Many clerks are excited about the availability of these funds and will likely take advantage of this offer for next year's elections.

I will discuss with our State Board members and our State Board of Elections staff your request that we reexamine our voting systems. I have no doubt that the systems will comply with Kentucky law since they have already been examined and certified by the State Board of Elections. In fact, the most recent version of the Hart InterCivic system was examined and certified by the State Board of Elections December 15, 2006. I will be sure to let you know how the State Board of Elections decides to proceed.

It disappoints me that your letter and press release might cause Kentucky voters to have unnecessary doubts about our election systems. Your assertion that we are using voting systems in Kentucky that are no longer certified by California is misleading and irresponsible. As the state's chief law enforcement official, you should know the power of your words and deeds. Your headline chasing has consequences.

The State Board of Elections and election administrators across Kentucky have been working for years to insure the voters have confidence in our system. We will not let you undermine these efforts.

Sincerely,

A handwritten signature in black ink, appearing to read 'Trey Grayson', with a stylized flourish at the end.

Trey Grayson  
Secretary of State  
Chairman, State Board of Elections  
Commonwealth of Kentucky